

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAKARTA T. LEGGETT	:	:	
	:	:	
Plaintiff,	:	:	12-cv-2822 (NSR) (LMS)
-against-	:	:	
	:	:	ORDER ADOPTING REPORT
COMMISSIONER OF SOCIAL SECURITY	:	:	AND RECOMMENDATION
	:	:	
Defendant.	:	:	
-----X		:	

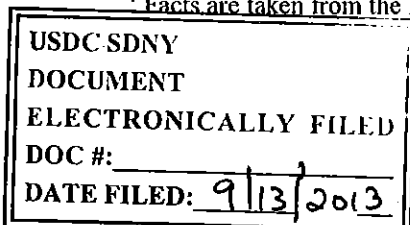
NELSON S. ROMÁN, United States District Judge

Jakarta T. Leggett ("Plaintiff"), proceeding *pro se*, seeks review under 42 U.S.C. § 1383(c) of a decision by the Commissioner of Social Security ("Defendant") denying her claim for Supplemental Security Income ("SSI") benefits. Defendant has moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. As this case was previously referred to Magistrate Judge Lisa M. Smith, on August 5, 2013, Judge Smith issued a Report and Recommendation ("R & R") pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b) recommending that Defendant's motion be granted. For the following reasons, Defendant's motion for judgment on the pleadings is granted.

Background¹

On October 8, 2008, Plaintiff applied for SSI, claiming that a disability—caused by lower back and neck pain, depression, anxiety, and headaches—began on November 20, 2004. On January 20, 2009, her application was denied. Plaintiff subsequently requested a hearing, which was held before an Administrative Law Judge ("ALJ"). On March 16, 2010, the ALJ denied Plaintiff's claim. After Plaintiff timely requested review, on February 13, 2012, the Appeals

¹ Facts are taken from the R & R, unless otherwise noted.



Copies mailed/faxed 9/13/2013
Chambers of Nelson S. Román, U.S.D.J.

Council denied her request and adopted the ALJ's decision as Defendant's final decision. (Soc. Sec. Admin. R. 1.)

On April 9, 2012, Plaintiff filed the instant action, asserting that the decision to deny her benefits was not supported by substantial evidence. After filing an answer, Defendant on December 12, 2012, made the instant motion for judgment on the pleadings. Plaintiff did not file opposition papers.

On August 5, 2013, Magistrate Judge Smith issued the R & R recommending that this Court grant Defendant's motion for judgment on the pleadings. Neither party has filed written objections to the R & R.

Discussion

A magistrate judge may "hear a pretrial matter [that is] dispositive of a claim or defense" if so designated by a district court. Fed. R. Civ. P. 72(b)(1); *accord* 28 U.S.C. § 636(b)(1)(B). In such a case, the magistrate judge "must enter a recommended disposition, including, if appropriate, proposed findings of fact." Fed. R. Civ. P. 72(b)(1); *accord* 28 U.S.C. § 636(b)(1). Where a magistrate judge issues a report and recommendation,

[w]ithin fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings or recommendations as provided by rules of court. *A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.* A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

28 U.S.C. § 636(b) (emphasis added); *accord* Fed. R. Civ. P. 72(b)(2), (3). However, "[t]o accept the report and recommendation of a magistrate, to which *no timely objection* has been made, a district court need only satisfy itself that there is *no clear error* on the face of the record.'" *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)

(emphasis added) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985); accord *Feehan v. Feehan*, No. 09 Civ. 7016 (DAB), 2011 WL 497776, at *1 (S.D.N.Y. Feb. 10, 2011); see also Fed. R. Civ. P. 72 advisory committee note (1983 Addition, Subdivision (b)) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”)).


Here, as neither party objected to Judge Smith’s R & R, the Court reviews the recommendation for clear error. The Court finds no error on the face of the R & R. Substantial evidence supported the ALJ’s determinations that (1) Plaintiff’s impairments did not qualify as and were not medically equivalent to one of the statutory impairments listed in the Social Security Administration’s regulations, and (2) Plaintiff could perform certain sedentary jobs. Thus, record evidence supported the ALJ’s finding that Plaintiff is not disabled under the Social Security Act.

Conclusion

For the reasons stated above, this Court adopts Magistrate Judge Smith’s Report and Recommendation in its entirety. Defendant’s motion for judgment on the pleadings is, therefore, GRANTED. The Clerk of Court is respectfully requested to terminate the motion at docket number 15. The Clerk of Court is directed to close this case.

Dated: September 13, 2013
White Plains, New York

SO ORDERED:

 9/13/13

NELSON S. ROMÁN
United States District Judge